

Introduced by Senator Simitian

February 22, 2005

An act to amend ~~Section~~ *Sections 1033 and 1034* of the Evidence Code, relating to evidence.

LEGISLATIVE COUNSEL'S DIGEST

SB 807, as amended, Simitian. Evidence: penitential communications: documents.

Existing law grants a member of the clergy a privilege to refuse to disclose a penitential communication as a matter of evidence in a court proceeding. *Existing law also defines writings for purposes of provisions governing evidence.*

This bill would exempt from that privilege ~~documents related to a penitential communication that are probative of alleged sexual abuse writings regarding or relating to sexual abuse, misconduct, or molestation.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 1033 of the Evidence Code is amended*
- 2 *to read:*
- 3 *1033. (a) Subject to Section 912, a penitent, whether or not a*
- 4 *party, has a privilege to refuse to disclose, and to prevent another*
- 5 *from disclosing, a penitential communication if he or she claims*
- 6 *the privilege.*

1 (b) *This section does not apply to writings, as defined in*
2 *Section 250, regarding or relating to sexual abuse, misconduct,*
3 *or molestation.*

4 **SECTION 1.**

5 *SEC. 2.* Section 1034 of the Evidence Code is amended to
6 read:

7 1034. (a) Subject to Section 912, a member of the clergy,
8 whether or not a party, has a privilege to refuse to disclose a
9 penitential communication if he or she claims the privilege.

10 (b) ~~This section does not apply to documents related to a~~
11 ~~penitential communication that are probative of alleged sexual~~
12 ~~abuse.~~ *writings, as defined in Section 250, regarding or relating*
13 *to sexual abuse, misconduct or molestation.*